

Serial No.: 10/829,552
Attorney Docket No.: 2A08.1-012

REMARKS

The Office Action mailed December 23, 2005 has been received and reviewed. By the present Response and Amendment, Claims 1, 11, and 16 are amended and Claims 1-20 are pending. No new matter is introduced.

Claims 1, 4-8, 13, 16 and 20 stand rejected 35 U.S.C. § 112, second paragraph. Independent Claims 1, 11, and 16 have been amended to remove the language regarding the "material samples" from the preamble of each claim. As such, the Applicant believes that the indicated rejections are moot, and all claims currently comply with 35 U.S.C. § 112. The Applicant notes that these amendments to Claims 1, 11, and 16 are *not* narrowing amendments.

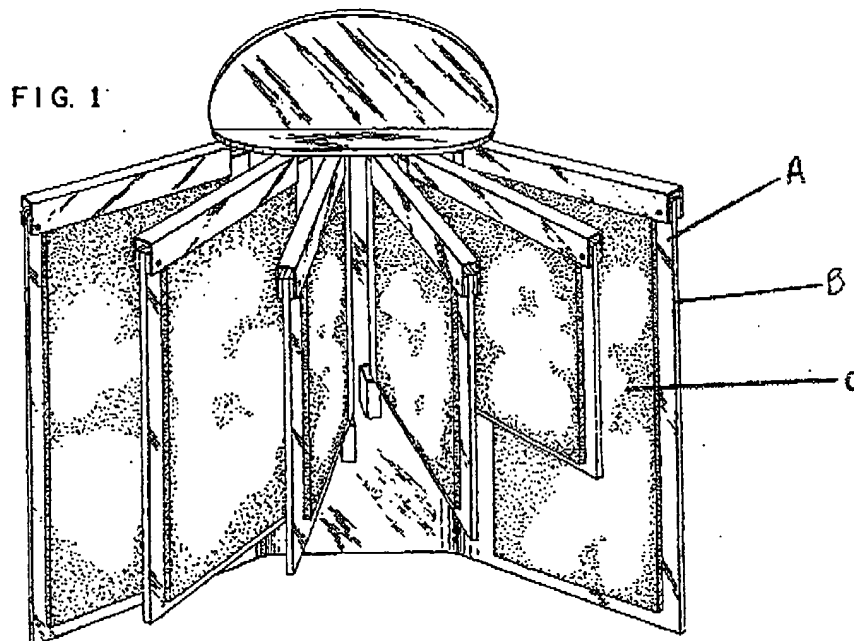
Claims 1-4, 10-17 and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Design Patent No. Des. 249,000 to Simmons. The Applicant respectfully traverses this rejection as Simmons does not disclose or suggest every element of Applicant's claimed invention. For example, independent Claim 1 includes a "*hinged panel pivotally movable between a first position...and a second position.*" By contrast, Simmons discloses a display stand for jewelry chain having six apparently fixed panels equally spaced apart from one another. (See Figures 1-3). Simmons does not disclose or suggest hinged panels that are pivotally movable. The drawing figures in Simmons do not depict or suggest any hinge or other mechanism allowing the panels of Simmons to pivot. Furthermore, it is readily apparent that at least the outer panels of Simmons are rigidly fixed to serve as a support base for the jewelry stand.

Independent Claim 1 has also been amended to clarify that each of the plurality of display panels have "a material sample mounted thereon." While Simmons shows a design for a display stand for jewelry chain, Simmons does not teach the mounting of any material sample on the panels. (See Figures 1-5). The title of the Simmons reference mentions "jewelry chain," but no chain (or any other material samples) is shown, nor is it indicated in any fashion how the jewelry chain is to be displayed in respect to the panels.

Serial No.: 10/829,552
Attorney Docket No.: 2A08.1-Q12

While it is conceivable that many options for the display of the jewelry chain might exist, the Simmons reference altogether fails to teach or suggest any. But given the nature of jewelry chain, it seems more likely that such materials would be hung from one or more of the panels, rather than be mounted to a panel as currently claimed in the present invention. Absent some improper hindsight reconstruction based on the Applicant's teaching, there is clearly no suggestion of mounting material samples to the panels of Simmons.

Finally, independent Claim 1 specifies that each material sample extends "to the free edge of the panel it is mounted on." As has already been noted above, the Simmons reference does not disclose or suggest the mounting of material samples on the panels disclosed therein. However, the Examiner relies on Figure 1 from Simmons as evidence that Simmons discloses the extension of material samples to the free edge of a panel when mounting the material samples thereto. See figure below:



Serial No.: 10/829,552
Attorney Docket No.: 2A08.1-012

It is the understanding of the Applicant that section A in the above drawing figure from Simmons is a "panel" having a free edge B (reference letters added by Applicant). The Examiner contends that Simmons discloses a material sample extending to the free edge B of the panel A, which it is mounted on. Section C appears to be an integrated surface protruding from the face of panel A, and not any sort of "material sample" being displayed as presently claimed (it clearly is not the "jewelry chain" intended to be displayed by Simmons). Nevertheless, even if section C was construed as a material sample, it **does not** extend to the free edge of the underlying panel as claimed by the Applicant. In fact, it appears from Figure 1 in Simmons that section C extends only to about 90% of the width of underlying panel A leaving approximately 10% of panel A exposed.

Therefore, for these reasons, the Applicant respectfully requests reconsideration and believes that Independent Claim 1 is in condition for allowance. As such, the Applicant notes that dependent Claims 2-10 are also allowable as they depend on the limitations of Claim 1.

Independent Claim 11 includes "a story-board extending laterally from said body panel" in addition to an array of display panels, such that the story-board "is only partially visible behind the array of display panels...". No such story-board is present in the display stand shown in Simmons. In Simmons, it is clear that six display panels are present; each display panel being indistinguishable from the others except for the relative height of the panels. Simmons does not teach or suggest any portion "extending laterally from [a] body panel" and "only partially visible behind the array of display panels" as presently claimed. Instead, Simmons merely teaches a display stand for jewelry chain having the six display panels shown therein for displaying jewelry chain. Therefore, the Applicant respectfully requests reconsideration and believes that independent Claim 11 is in condition for allowance. As such, Applicant notes that dependent Claims 12-15 are also allowable as they depend from allowable Claim 11.

Serial No.: 10/829,552
Attorney Docket No.: 2A08.1-012

Independent Claim 16 includes a first and second array of display panels "pivotally mounted" to the display rack wherein the display panels have "material samples thereon." As noted above regarding independent Claim 1, Simmons does not disclose or suggest hinged panels *pivotally* movable. Additionally, the Simmons reference does not disclose or suggest the mounting of material samples on the panels disclosed therein. Therefore, the Applicant respectfully requests reconsideration and believes that Independent Claim 16 is in condition for allowance. As such, Applicant notes that dependent Claims 17-20 are also allowable as they depend on the limitations of Claim 16.

It is also noted that the individual dependent claims are clearly distinguishable from the art of record. For example, dependent claim 17 is separately allowable as written, because Simmons does not disclose or suggest the use of an underlying display panel that is wider than the overlying display panel. In Simmons, all of the panels are the same width (as best seen in Figures 2 and 3). The Examiner relies on Figure 2 to assert that an underlying panel of Simmons is wider than the overlying panel. However, it appears clear from Figure 2 that the panels in Simmons are substantially the same size, if not identical. Upon first glance, it may appear from Figure 5 that the panels in Simmons are of different widths, but this appearance occurs merely because the panels are angled in respect to each other. (See Figures 1-3). Therefore, it is readily apparent that dependent Claim 17 is separately allowable over the art of record.

Claims 5, 18 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Des. 249,000 to Simmons. Applicant respectfully traverses this rejection. As noted above, dependent Claims 5, 18, and 20 are allowable because they stem from independent Claims 1, 11, and 16 which are believed to be allowable as written. However, even if independent Claims 1, 11, and 16 are not considered allowable as written, Applicant traverses the Examiner's assertion of "Official Notice", and requests citation to some reference or teaching that the indicated subject matter is well-known. Indeed, it would not be obvious or well-known to increase sample size with increasing material cost. Quite to

Serial No.: 10/829,552
Attorney Docket No.: 2A08,1-012

the contrary, as the cost of the material increases (i.e., higher cost per square foot), one skilled in the art might well seek to reduce the sample size (i.e., smaller square footage) to contain costs. But regardless, the claimed subject matter is not "capable of instant and unquestionable demonstration as being well-known." MPEP § 2144.03. As such, the Applicant respectfully requests reconsideration.

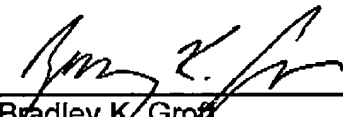
Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Des. 249,000 to Simmons, and further in view of U.S. Patent No. 5,715,949 to Rutledge. Applicant respectfully traverses this rejection. As noted above, dependent Claims 6 and 7 are allowable, at least because they stem from independent Claim 1 which is believed to be allowable as written. Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Design Patent No. 249,000 to Simmons, and further in view of U.S. Patent No. 3,777,896 to Ehrlich. Applicant respectfully traverses this rejection. As noted above, dependent Claim 8 is allowable, at least because it stems from independent Claim 1 which is believed to be allowable as written. Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Design Patent No. 249,000 to Simmons, and further in view of U.S. Patent No. 3,079,725 to La Fleur. Applicant respectfully traverses this rejection. As noted above, dependent Claim 9 is allowable, at least because it stems from independent Claim 1 which is believed to be allowable as written.

Serial No.: 10/829,552
Attorney Docket No.: 2A08.1-012

CONCLUSION

In view of the amendments submitted herein and the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicant earnestly solicits early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicant's undersigned attorney at (770) 984-2300.

Respectfully submitted,



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